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MAILED
JUL 19 2012
OFFICE OF PETITIONS

In re Application of	:	
Dick	:	
Application No. 10/799,921	:	DECISION ON PETITION
Filed: March 10, 2004	:	
Attorney Docket No. 10752.9	:	

This is a decision on the petition, filed June 21, 2012, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Corrected Application Paper ("Notice"), mailed April 10, 2012, which set a two (2) month period for reply. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Petitioner asserts that the Notice mailed April 10, 2012 was not received at the correspondence address of record.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

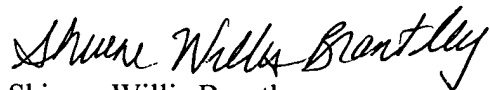
3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the holding of abandonment withdrawn.

As applicant has filed a reply to the April 10, 2012 Notice, there is no need to re-mail the Notice. This application is being referred to Technology Center AU 2436 for the examiner of record's consideration of the amendment and drawings, filed June 21, 2012.



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